

T H O . S T A N L Y his Dispensation of Perinde valere.

*Episcopus Sodorensis.*

a Thom. Stanly seeks to the Church for remedy after his excesse, which what it was, appears by the recital, and remedy following.

b H.8. dispenseth with him recipere et retinere two Benefices.

c Recital.

d Tho. Stanly his first excesse was, that having dispensation but for two Benefices, he was praet<sup>t</sup> Bishop before he had further dispensation.

e Competebat et retinere, relate to the Bul.

f Plural number, by

one he was made Bi-

shop, by the other dispened with.

g Tho. Stanly his se-  
cond excesse was, that hauing dispensation but retinere, he did re-

cipere, whereof came

three culs.

h i. That his first be-  
nefices avoided, and he held them but de  
facto.

i 2. That he was in-  
habilitas to receive the fruits and profits.

k 3. That he had in-

cured Ecclesiastical

censures and puni-  
shments.

Remedie threefold.

I. 1. Absolution si

censures, and inhabili-

tie to receive the pro-  
fits.

m, m. 2. Dispensation to hold these Benefices with his Bishoprike priuile, as if he had bin dispensed with at the time of taking the Bishoprike.

n 3. Dispensation to hold these Benefices perinde, as if he had bin dispensed with all obtinere, as well as reti-  
nere. All which shows,

1. That the dispensati-

on was after the Bi-

shoprike.

2. That it was but re-  
tinere, and he did re-  
cipere.

Mathanus, &c. dilecto nobis in Christo & confratri nostro Thoma eadem permis-  
sione Sodorensi Episcopo, salutem, & fraternalm in Domino charitatem, Ecclesia Dei  
pia mater a recurrentibus ad eam cum humilitate filiis, post excessum libenter  
se propitiam ac benignam exhibere, ac illos fauore prosequi gratiose solet, quos  
præsertim ad hoc nobilitas generis, ac propria virtutum merita multipliciter re-  
commendat. Exhibita sane pro parte tua petitio continebat quod alias postquam tecum  
per bona memoria Henricum nuper Anglie Regem eius nominis octauum, per suas  
literas patentes sub dato apud Westmonasterium, decimo octavo Augusti, anno Dom.  
1537. & regni dicti Regis anno vicesimo nono dispensatum extitit, ut non obstante  
defectu natalium quem patiebaris ex soluto genitus & soluta, ad omnes etiam sacros  
ordines promoueri, & in eisdem postea ministrare, ac b duo quæcunque curata vel  
non curata, seu alias incompatibilia beneficia Ecclesiastica recipere, & insimul  
quoad viueres retinere valeres, & possis, prout in dictis literis patentibus nobis  
presentis concessionis tempore ostensis plenus liquet & appetat, ac postea dicta Ec-  
clesia Sodorensi Pastoris solatio destituta tecum in eiusdem Ecclesiae Episcopum ac Pa-  
storem d per forinsecam potestatem præfecto ulterius per eandem forinsecam  
potestatem dispensatum est, ut cum dicto Episcopatu, quandom eidem præfuisse  
quacunque, quicunque, & qualiacunque beneficia incompatibilia ad qua ius tibi  
quomodolibet competebat quoad viueres retinere, valeres prout ex e inspectione  
literarum dictæ forinsecæ concessionis nobis similiter presentis concessionis tempore  
ostensarum plenus constat & appetat. Tu Rectorias parochialium Ecclesiarum da

Winwick, g Wiggan & Northmeales dioceos Cestrensis, & Ecclesiam de Barwick  
in Elmet dioceos Eboracensis, duo ex eisdem virtute dictarum literarum paten-  
tium, & altera duo vigore dictæ forinsecæ concessionis, per aliquid tempus h de  
facto, una cum dicto Episcopatu detinuisti prout & desines in presentis fructus etiam  
nonnullos ex eisdem percipiendi i inhabilitatem forsan ex hoc contrahendo. Vnde  
de nobis humiliiter supplicationem fecisti, quatenus tibi de opportuno remedio prouin-  
dere dignaremur. Nos igitur considerantes fructum & prouentum dicti Episcopa-  
tus exiguitatem & exilitatem ut mensam Episcopalem omnino sufficere non possint,  
ac volentes te alias de nobilitate generis, vite & morum honestate alias apud nos mul-  
tipliciter commendatum fauore prosequi gratiose, ut statum tuum iuxta Pontificis  
dignitatem exigentem, decentius tenere possis, teg. à quibusuis k excommunicatio-  
nibus, suspensionibus, & interdictionibus, aliquique Ecclesiasticis sententiis, cen-  
suriis & poenis, à iure vel ab homine, quavis occasione vel causa latis: si quibus  
quomodolibet inodatus existis ad effectum presentium duntaxat consequendum ha-  
rum serie, l absoluendum & absolutum fore censentes. Nec non tam dicti Episco-  
patus quam de Winwick, Wiggan, Northmeales & Barwick Ecclesiarum prædictarum  
& aliorum quorumcunque Beneficiorum quæ obtines vel expectas, fructus, reditus,  
& prouentus veros annos valores, presentibus pro expressis habentes, ac l omnē  
inabilitatis maculam & notam per te præmissorum occasione forsan contra-  
ctam penitus abolentes tuis in hac parte supplicationibus inclinati. Tecum ut  
una cum dicto Episcopatu ac duobus beneficijs per te vigore dictarum literarum pa-  
tentium obtentis, altera duo beneficia & insimul quatuor prædicta beneficia quoad  
vixeris in Commenda in perinde atque si tempore assecutionis dicti Episcopatus  
ad eundem una cum dictis quatuor beneficijs, dicta quatuor beneficia cum eodem quo-  
ad viueres insimul non obtinendum & respendendum tecum sufficienter dispensatum  
fuisset retinere, ac uno vel duobus eorundem beneficiorum dimissis unum vel duo a-  
lia quæcunque curata, vel non curata, seu alias incompatibilia beneficia recipere, &  
insimul quoad vixeris in Commenda ut præfetur una cum dicto Episcopatu, & cœte-  
ris beneficijs non tamen ultra quatuor beneficia præter Episcopatum prædictum reti-  
nere libere, & licite valeas & possis autoritate prædicta, de speciali gratia dono quæ-  
sum in nobis est & iura regni patimur tenore presentium in dispensamus. Contra-  
rijs

hat by these two rys or dinibus in aliquo non obstantibus. Proniso semper quod dicta beneficia incom-  
estes he had false tibilia debitum interim non fraudentur obsequijs, & animarum cursu in iisdem nullate-  
the three former s. For remedie nus negligatur, sed eorundem congrue supportentur onera debita & coniuncta. Volumus  
ne of he did recur- autem quod haec literae tibi non proficiant, nisi per literas patentes Regie Maiestatis de-  
ad Ecclesiam to be cedue by this dispens bite fuerint confirmatae. Datum sub sigillo ad facultates vice simo die mensis Nouemb.  
tion of Perinde va- An. Dom. 1561. & nostra consecrationis anno secundo.  
re, which because it  
came too late, as did also the Bull, they do both proinde non valere.

Whether by the Grammaticall and Logicall construction of this instrument of the most reverend Father in God Mathew Parker Archbishop of Canterbury, it doth not plainly appear:

1. That the Popes dispensation came in time after Thomas Stanly his prefecture to the Bishoprike of Mann.
2. That the Popes dispensation was but *retinere ad que ius competebat*, and not *recipere*.
3. That the words *competebat* and *retinere* are the very words of the Popes dispensation, and not of Thomas Stanly his petition otherwise then as it recites the very words of the Bull.

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<i>John Davis.</i>	<i>Henry Marten.</i>	<i>William Camden Cl-</i>
<i>Ro. Chaloner.</i>	<i>Io. Wilson Schoole-</i>	<i>renceux.</i>
<i>James Vber.</i>	<i>master of Westmin-</i>	<i>William Hayne Schoole-</i>
<i>Thomas Goads.</i>	<i>ster.</i>	<i>master of Merchant-</i>
<i>Daniel Featly.</i>	<i>Matew Bust Schoole-</i>	<i>taylors schoole.</i>
<i>Nathan Harris.</i>	<i>master of Eaton.</i>	<i>Thomas Willis Schoole-</i>
<i>Anthony Worton.</i>	<i>Alexander Gill School-</i>	<i>master of Thistle-</i>
<i>Thomas Gasaker.</i>	<i>master of Pauls school.</i>	<i>worth.</i>

The Lease of Winwiche made 5. Eliz. is void, as made by one no Incumbent of Winwick, his Incumbencie being long before auoided by a fourefold auoidance.

1. Degree of Auoidance, H.8. his dispensation being but for two Benefices, and not for a Bishoprik, when Thomas Stanly 4. Mar. accepted the Bishoprik, his Benefice of Winwick became void, because the Bull (though admitted good as granted by the Pope) came too late, viz. as an vltior or further grace, after he was (not onely electus, but) *prefectus Episcopatus*, as appeares by the Grammaticall and Logicall construction of his owne dispensation of *perinde valere* certified before by Diunes, Common and Ciuell Lawyers, and Schoole-masters of note; and so the Bishoprik 4. Mar. auoided the benefice of Winwick for want of a dispensation in time.

2. Degree of Auoidance, VVinwick became voide vpon Thomas Stanly his Indnction 6. Mar. into his fourth Benefice Wiggan. 1. because the Bishoprik was voide as conferred by the Pope, and the Bull was *retinere cum dicto Episcopatu;* so no Bishoprik, no Bull; no Bull, no benefice of Winwick. 2. Admit the Bishoprik and Bull were good as granted by the Pope, yet is Winwick auoided by Wiggan, 6. Mar., because the Bu'll is but *retinere*, and he did after *recipere* Wiggan, and a Bishop may be instituted at least to his priudice. 3. Admit the Bull were *recipere*, yet then is Winwick voide two wayes: 1. because then he had no dispensation *retinere* Winwick with his Bishoprik, and so the Bishoprik auoided VVinwick. 2. because Thomas Stanly was not qualified according to 21. H.8.13. which in this point was then in force, notwithstanding the repeale 1. & 2. P. & M. 8.

That

<i>Iosiah Herne plaintiff.</i>	<i>The case touching the Less.</i>	<i>John Fortescue &amp; alij d. fezzates.</i>
<i>Series Temporum.</i>		<i>verdict fol.</i>
<i>2. H.8.</i>	<b>T</b> he King dispensed with <i>Tho. Stanly</i> being a bastard and a leymen, to take Orders, and to hold two Benefices.	<i>3. 4 &amp; 2.</i>
<i>6. Ed. 6.</i>	He tooke <i>Winwick.</i>	<i>15</i>
<i>1. Mar.</i>	He tooke <i>Badsworth.</i>	<i>16</i>
<i>4. Mar.</i>	He was consecrate Bishop of <i>Mann</i> by forigne power.	<i>17</i>
	He was dispensed withall by the Pope, <i>retinere quamdiu prefuerit, quacunque, quotcunque &amp; qualiacunque beneficia ad que ins sibi quomodolibet competebat.</i>	<i>17. &amp; 22.</i>
<i>5. Mar.</i>	He did recipere <i>Northmeales.</i>	<i>18</i>
<i>Temp. Mar. 6.</i>	He did recipere <i>Wiggan</i> as all the former, by presentation, institution, and induction, all of them being Benefices with Cure absolute value	<i>19</i>
<i>4. E. iz.</i>	<i>Poſtea he tooke a perinde valere frō Mathew Parker, retinere in Comendam quamdiu prefuerit, Winwick, Wiggan, Northmeales &amp; Berwick in Elmet, perinde, atque si tempore aſequationis dicti Episcopatus ſufficienter diſpensatum fuifet.</i>	<i>20</i>
<i>5. Eliz.</i>	He made a Leafe of the dwelling houſe and Rectory of <i>Winwick</i> for 99 yeares to his Patrons ſecond ſonne, and died <i>11. Eliz.</i>	<i>28</i>
	1. Whether the institution and induction of <i>Thomas Stanley</i> Bishop of <i>Mann</i> into <i>Northmeales</i> and <i>Wiggan</i> , and holding them for ſome yeares, haue not this effect to make vtterly void his first benefice <i>Winwick</i> , ſo as he could make no demife thereof to bind the ſuccellors of the Church of <i>Winwick</i> .	
	2. Whether an Incumbent of a Benefice with Cure being dispensed withall, before his consecration Bishop, <i>ad retinendum</i> his ſaid Benefice, <i>in commendam quoad vixerit, &amp; prefuerit &amp; ad faciendum fructus ſuos</i> be after his consecration Incumbent upon his first institution.	
	3. Whether a <i>Commendatory ad retinendum quoad vixerit &amp; prefuerit</i> , without any clause that he ſhall <i>faere fructus ſuos</i> , may make a Leafe to bind Succellors; and whether he be not ſubiekt to account for the fruites by law.	

*Sir I. Bennet,* We desire the opinions in writing of the learned Judges of the Ecclesiastical Courts,  
*Sir W. Bird,* which are not of Councell in causes) in these points within written, for the direction of our  
*Sir Geo Newman,* Knights, iudgements therein.

*H. Winch.*  
*Io. Denham.*

1. We are of opinion that *Thomor Stanly* after he was consecrated Bishop of *Mann*, if he were by title of institution Parson of *Winwick*, after his institution and induction into *Northmeales* and *Wiggan*, lost that title, and ſo could not make a Leafe thereof.
2. To the ſecond, we take it, that when he was confeſcated Bishop, his former title to *Winwick* was determined, and he thenceforth held onely by *Commendam* whereby he is rather *quasi Rector* then *Rector* indeed, his poſſeſſion therein being not perpetuall, but *quamdiu prefuerit Episcopatuſ*.
3. We do think that *Commendatarius ad tempus certum or incertum*, ſo it be not *durante vita propria*, if he haue not the clause, that he may make *fructus ſuor*, is accountable, and is onely *Procurator* not *Rector*, and he cannot make a Leafe to bind the Succellors, but may as Administrator diſpoſe of the fruits during his owne time.

*John Bennet.*  
*William Bird.*

*George Newman.*

To the honorable Judges Sir *Humphrey Winch Knight*, one of the Iuſtices of his Maiefies Court of Common Pleas, and Sir *John Denham Knight*, one of the Barons of his Maiefies Exchequer, Iuſtices of Affize for the Countie Pallatine of Lancaster.

theſe.

That the Bishoprick and Bull are voide as granted by the Pope, appeares by Statute and Common law. 1. by Statute law, 25.Ed.3.22. 25.Ed.3. confirming the stat. of Ed. 1. made at Carlile, doth further enact, that the Pope cannot give Archibishopriks, Bishopriks, nor Benefices, &c. 38.Ed.3.Stat 2.C.1. & 2. & 16.R.2.5. 2.H.4.c.4. 7.H.4.6. These Statutes were not repealed, 1. & 2.P. & M. but stood in force.

2. By Common Law 10.Ed.4. fol.1 & 2. 33.Eлиз. Cooke 5 part. Cawdries case, fol.18. Collations from the Pope are voide, 21.Ed.3. 40. Cooke lib.5. part. 1. in Cawdries case, fol.14. Cooke lib.3. 75.76. 19 Ed.3. qu. non admiss. 7.46. Ed.3. præmunire 6.8. Abbot of VValtham his case. The Pope gaue the Abbotschip of VValtham to Morris, reciting in his Bull that he gaue it him without any respect had to his election. By all the Judges this Bull was contrary to the lawes of England, whereby his temporalties were seized.

6. & 7.Ed.6. Dyer fol.81. 44.Eлиз. Cooke 4.part. fol.107. Grestock Coll.case. This Colledge founded by Pope Urban without the Kings licence, could not come to the King by the act of Dissolution, because it was voide, and had no lawfull commencement, and was no Colledge. 8.H.4.20. 1.H.7.10. 30.Affiz.19. one had notified an excommunication of the Pope to the Kings Treasurer, the King would haue had him drawne and hanged, but that the Chancellor and Treasurer kneeled for him, and yet he was to be foriured the Realme, and Greene said in the Common Pleas the bulls were disallowed. 8.H.6.3.

18. Eлиз. Dyer 347. Westons benefice which he held by the Popes bull was voide, and did demurre voide till he tooke the effects of the Bull, vnder the great seale, according to 28. H.8.16, whereby he was made loyall incumbent againe by that statute.

The 28.H.8.16. in affirmance of the Common law (notwithstanding the disuse of the former statutes, and after vse and usurpation of the Pope) doth declare and adiudge that all Bulls and dispensations from Rome of what nature or kind soever were voide ab initio to all intents and purposes against the lawes of the Realme, and onely timorously and ignorantly received of the subject, and doth enact them to be voide to all purposes, and unpleadable vnder præmunire.

The inconueniences that might ensue, are prevented by a proviso in this Act that they might take the effects of their Bulls (if allowed by Commissioners according to that statute) vnder the great Seal within a yeaer, which Thomas Stanly never did.

The stat. of 1.Eлиз. 1. repealing the stat. of Repeale of 1. & 2. P. & M. 8. and reviving the 2.y. H.8.21. and the 28.H.8.16. doth from thenceforth at least make the Bull void, and so VVigan doth then at least make VVinwick void, that which hindered (viz. the bull) being taken out of the way.

If all Thomas Stanly his dispensations be admitted good, and to come in time, yet is he by them but commendatarius, without the clause facere fructus suos, and so could not demise to bind successors, as the Ecclesiastical Judges haue certified, to which the \* Common Law doth accord.

Famous and eminent Lawyers haue subscribed severall cases that the Lease is void.

The Judges of Affize at Lent Affizes at Lancaster, 1618, after many and solemne arguments of Common Lawyers and Civilians, gaue judgement that the Lease was voide.

Ob. Judgement was giuen vpon the whole matter, and there is no good prooфе that Thomas Stanly had the benefices of Baddesworth and Berwick in Elmet, which are found in the verdict.

Reſp. 1. The ſpecial verdict was found by conſent, and ſubſcribed by counſell on both ſides, and therefore this ought not to be obieeted. 2. Berwick in Elmet is no part of the caſe before ſet downe. 3. The queſtions vpon which the Judges iuſtiſed, and which the Ecclesiatiſcal Judges reſolved, were not vpon Baddesworth and Berwick in Elmet, but vpon other parts and points of the verdict and caſe, as appears before. 4. The points at Common Law argued and iuſtiſed vpon to make voide this Lease, and before laid downe, are not vpon Baddesworth or Berwick in Elmet, but vpon other points and parts of the caſe and verdict; and therefore though for forme the judgement were giuen vpon the whole matter, yet the points aboue mentioned (that haue no relation to Baddesworth or Berwick) all or one of them do make the Lease apparently void.

3. Degree of  
Auidance,  
1. Eлиз.

4. Degree.

\* 27.H.8.15.  
Selden of  
Tithes, fol.87.